

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**Edward Butowsky,**

Plaintiff,

v.

**David Folkenflik, et al.,**

Defendants

**Case No. 4:18-cv-442-ALM**

**UNOPPOSED MOTION FOR EXTENSION**

NOW COMES Edward Butowsky, the Plaintiff, moving the Court to grant an eight-day extension of the August 4, 2020 deadlines set forth in its July 7, 2020 Order (Doc. No. 172):

On June 5, 2020, the Court ordered the Plaintiff to produce certain documents and answer certain interrogatories not later than July 5, 2020. *See* June 5, 2020 Order (Doc. No. 147). The Plaintiff moved the Court to extend those deadlines until August 4, 2020, *see* July 3, 2020 Motion for Extension of Deadlines (“First Motion”) (Doc. No. 171), and the Court granted the motion on July 7, 2020. *See* July 7, 2020 Order (Doc. No. 172). As the undersigned indicated in the First Motion, he was authorized by the Plaintiff to retain a firm to assist with discovery production. As of midday on August 3, 2020, the review team had reviewed 9,657 documents out of a total of 16,779 documents, which means a total of 7,122 remained to be reviewed. *See* August 3, 2020 Email from Heather Peterson to Ty Clevenger (Exhibit 1). The review would have been completed much sooner but for

some unforeseen complications. For starters, the undersigned did not realize that he would have to use two different firms: a data extraction firm and a document review contractor.<sup>1</sup> The latter firm, KLDDiscovery (“KLD”), can actually perform both of those functions, but the undersigned was unaware that a data extraction firm, Online Security, had already been hired in *Aaron Rich v. Edward Butowsky, et al.*, Case No. 1:18-cv-00681-RJL (D.D.C.).

Online Security does not provide document review services, so the Plaintiff needed to hire two different firms, or KLD would have had to extract the data all over again. Although Online Security had already extracted most (but not all) of the data from Mr. Butowsky’s accounts and devices, it first had to apply 224 search terms from the June 25, 2020 status report, *see* June 25, 2020 Status Report, Exhibit A (Doc. No. 165-1), then de-duplicate the results. That process was completed on July 21, 2020. *See* July 21, 2020 Email from Richard Gralnik to Ty Clevenger (Exhibit 2). Online Security then had to train the KLD review team in the use of its document review software, because the two companies normally use different software. That process was completed on July 27, 2020, and KLD began reviewing documents immediately thereafter.

Other factors have delayed production. After experiencing severe pain, Mr. Butowsky was hospitalized again during the week of July 20, 2020 for a medical procedure, and he learned on July 30, 2020 that he is scheduled for yet another surgery on August 3, 2020 for his long-delayed hip replacement. *See* Declaration of Edward

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<sup>1</sup> As witnessed by his electronic signature on this document, Ty Clevenger declares under penalty of perjury under the laws of the United States that his factual statements herein are true and correct.

Butowsky (Exhibit 3). The Court may recall that Mr. Butowsky has been without a left hip since January 10, 2020 because he contracted a life-threatening infection related to his first artificial hip. *See* First Motion. As a result of the latest surgery, Mr. Butowsky will not be available to assist with a final review of discovery production for about one week. *See* Declaration of Edward Butowsky (Exhibit 3). Meanwhile, the review team probably will not be finished with its review until the week of August 10, 2020. The reviewed documents then need to be further reviewed with the client, which will take additional time.<sup>2</sup>

In light of the foregoing circumstances, the Plaintiff respectfully moves the Court to extend his deadlines from complying with the Court's July 7, 2020 Order from August 4, 2020 until August 12, 2020.

Respectfully submitted,

**/s/ Ty Clevenger**

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**Attorney for Plaintiff Edward Butowsky**

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<sup>2</sup> The undersigned also would prefer to review the results from the document review team before finishing his drafts of the Plaintiff's other discovery responses.

### **CERTIFICATE OF CONFERENCE**

I certify that I conferred with counsel for the Defendants via telephone and email on August 3, 2020, and the Defendants do not oppose this request.

**/s/ Ty Clevenger**

Ty Clevenger

### **CERTIFICATE OF SERVICE**

I certify that a copy of this document was filed with the Court's ECF system on August 4, 2020, which should result in automatic notification via email to all counsel of record.

**/s/ Ty Clevenger**

Ty Clevenger